

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CR. NO. 2:07-cr-26-WKW
)	
FREDERICK A. SMITH)	

ORDER

On April 6, 2007, Defendant Frederick A. Smith filed an Unopposed Motion to Continue Trial. (Doc. # 17.) While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any "[a]ny period of delay resulting from other proceedings concerning the defendant, including . . . delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion." 18 U.S.C. § 3161(h)(1)(F).

In Smith's motions to continue, his counsel asserts that there is a pretrial motion to suppress set for an oral hearing before the Magistrate Judge on April 12, 2007. The defendant requests a continuance to allow the Magistrate Judge an adequate time to consider

the motion. The government does not oppose the Motion to Continue (Doc. # 17) and the defendant has filed an affidavit waiving his Speedy Trial Act rights (Doc. # 17-2).

Accordingly, it is hereby ORDERED that:

1. The motion to continue (Docs. # 17) is GRANTED.
2. The trial of this case is continued from the April 23, 2007, trial term to the August 6, 2007, trial term.
3. The Magistrate Judge shall conduct a pretrial conference prior to the August 6, 2007, trial term and enter a pretrial conference order.

DONE this 10th day of April, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE